

401 KAR 5:065. KPDES permit conditions.

RELATES TO: KRS 224.01-010, 224.01-070, 224.01-400, 224.18-100, 224.70-100, 224.70-120, 224.99-010, 40 C.F.R. 122, 129, 136, 401-471, 503, 33 U.S.C. 1251 - 1387, EO 2008-507, 2008-531

STATUTORY AUTHORITY: KRS 224.10-100, 224.10-110, 224.16-050, 224.70-110, 40 C.F.R. 122, 129, 136, 401-471, 503, 33 U.S.C. 1251-1387, EO 2008-507, 2008-531

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the cabinet to issue, continue in effect, revoke, modify, suspend or deny under conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.16-050 authorizes the cabinet to issue federal permits pursuant to 33 U.S.C. 1342(b) of the Federal Water Pollution Control Act, 33 U.S.C. 1251-1387 subject to the conditions imposed in 33 U.S.C. 1342(b) and (d) and that any exemptions granted shall be pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 - 1387. EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environmental Cabinet. This administrative regulation establishes the conditions applicable to all a KPDES permit and the procedures for establishing and calculating permit conditions.

Section 1. Definitions. Definitions established in 40 C.F.R. 122.2 shall apply for the interpretation of federal regulations that are cited within this administrative regulation.

Section 2. Federal Regulations. A KPDES permit limitation, standard, or condition shall be as established in:

- (1) 40 C.F.R. 122.41, effective July 1, 2008;
- (2) 40 C.F.R. 122.42, effective July 1, 2008, as amended in the Federal Register, Volume 73, Number 225 P70483, November 20, 2008;
- (3) 40 C.F.R. 122.43, effective July 1, 2008;
- (4) 40 C.F.R. 122.44, effective July 1, 2008;
- (5) 40 C.F.R. 122.45, effective July 1, 2008;
- (6) 40 C.F.R. 122, Appendix A, effective July 1, 2008;
- (7) 40 C.F.R. 129, effective July 1, 2008;
- (8) 40 C.F.R. 136, effective July 1, 2008;
- (9) 40 C.F.R. 401- 471, effective July 1, 2008; and
- (10) 40 C.F.R. 503, effective July 1, 2008.

Section 3. Substitutions, Exceptions, and Additions to Cited Federal Regulations.

(1) "Waters of the Commonwealth" shall be substituted for "Waters of the United States" in the federal regulations cited in Section 2 of this administrative regulation.

(2) "Cabinet" shall be substituted for "Director" if the authority to administer the federal regulations cited in Section 2 of this administrative regulation has been delegated to the cabinet.

(3) "KPDES" shall be substituted for "NPDES" if the authority to administer a federal regulation cited in Section 2 of this administrative regulation has been delegated to the cabinet.

(4) In addition to applicable requirements for state permits established in 40 C.F.R. 122.43(b)(1), effective July 1, 2008, the requirements of interstate agencies shall be considered in permits issued by the cabinet. (9 Ky.R. 866; Am. 1127; eff. 6-1-1983; 11 Ky.R. 765; eff. 1-7-1985; 12 Ky.R. 540; eff. 12-10-1985; 13 Ky.R. 258; eff. 9-4-1986; 20 Ky.R. 3272; 21 Ky.R. 421; 918; eff. 8-24-1994; 29 Ky.R. 1075; 1587; eff. 12-18-2002; TAm eff. 8-9-2007; 35 Ky.R. 2551; 36 Ky.R. 395; eff. 9-25-2009.)